

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2004-092347

03/22/2011

HONORABLE BRUCE R. COHEN

CLERK OF THE COURT  
C. Gauna  
Deputy

IN RE THE MATTER OF  
KENNETH PAUL WENTWORTH

TERRY B KISER

AND

DARBIE LYNN WENTWORTH

DARBIE LYNN WENTWORTH  
3747 N AVOCA  
MESA AZ 85207

CONCILIATION SERVICES-SE

**RESOLUTION MANAGEMENT CONFERENCE  
REFERRAL FOR MEDIATION  
EVIDENTIARY HEARING SET**

Courtroom 304-SE

1:37 p.m. This is the time set for Resolution Management Conference. Petitioner/Father, Kenneth Paul Wentworth, is present with counsel, Terry B. Kiser. Respondent/Mother, Darbie Lynn Wentworth, is present on her own behalf.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

This matter comes before the court on the Petition for Modification filed by Father on December 20, 2010. He was seeking modification of the terms of the August 9, 2005 Consent Decree, which awarded the parties joint legal custody of Sierra (now an adult attending University of Arizona); Jordan, age 15; and Kenneth, age 13. The order further provided for an equal parenting time schedule.

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It appears that the parties successfully navigated parenting issues over the years that followed entry of the Decree. In fact, they have varied from the court orders as deemed appropriate for children.

In the later part of 2010, Mother's circumstances changed significantly. She indicates that she lost her home and elected thereafter to move to California on the belief that it served as the best available option to her. Upon her move, Father filed the Petition for Modification.

Mother argues that there was an agreement between the parties that Jordan would move to California at the end of the school year. This claim is denied by Father. In any event, Mother elected to return to Arizona which she did by the end of February or beginning of March, 2011. She is now living in relatively close proximity to the children's school and believes that the prior plan should remain the plan for the future. Father, however, is concerned about more recent developments and believes that the plan should be revisited.

This court notes that at the time of the filing of the Petition, the facts then existing clearly established adequate cause pursuant to A.R.S. § 25-411. There are questions, however, as to whether the current facts established the same adequate cause. In any event, Father is not now seeking modification of legal custody but rather, is asking only that the physical custody plan be reviewed. Based thereon, the court is authorizing that this matter proceed to hearing.

There is reason to believe that the parties will be successful in resolving the parenting time issues. To facilitate those efforts, the parties have stipulated to participate in mediation.

**IT IS ORDERED** referring the parties to Conciliation Services for post-decree mediation of child custody and/or parenting-time issues. The parties shall comply with all instructions and directives issued by Conciliation Services.

**IT IS FURTHER ORDERED** that each party must pay the **\$100 per party** fee at the Clerk of the Court filing counter, at least 30 days before the mediation. Each party must bring the receipt for payment or deferral to the mediation. Forms to request a fee deferral are available at the filing counter.

**IT IS FURTHER ORDERED** setting Mediation for **April 6, 2011 at 10:30 a.m.** in Conciliation Services at:

**Maricopa County Superior Court  
Southeast Regional Court Center  
222 East Javelina, Suite 1300  
Mesa, Arizona 85210**

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WARNING

IF YOU FAIL TO APPEAR AT THE MEDIATION AS ORDERED, YOU MAY BE REQUIRED TO PAY A \$100 NO SHOW FEE. IF YOU CANNOT ATTEND, YOU MUST REQUEST AND BE GRANTED PERMISSION FROM THE JUDGE IN YOUR CASE TO RESCHEDULE THE SESSION AT LEAST THREE FULL COURT DAYS BEFORE THE MEDIATION. IF AN AGREEMENT IS REACHED PRIOR TO YOUR APPOINTMENT DATE, YOU MUST SUBMIT A REQUEST TO THE JUDGE TO VACATE THE CONFERENCE AND WAIVE THE FEE IN ORDER TO AVOID FEE COLLECTION.

In addition to the parenting time issues, there are support related issues to address. First, it is undisputed that the children have been in Father's primary care from early December, 2010 through the present date. Based upon Mother's agreement,

**IT IS ORDERED** that the amounts that have been withheld from Father's earnings to be applied against child support for the period from December, 2010 through and including March 31, 2011 shall now be retained by Father and not distributed to Mother. Father shall be deemed to have satisfied any support obligation for these four months and neither party shall have any claim against the other for this time period.

As for ongoing child support, a number of factors may influence the obligation. Presently, Father is required to pay to Mother the sum of \$1,000 under an order that was entered in May, 2010. There is the potential that there have been changes in economic circumstances and there is also the potential of a change in the overall parenting plan. If these changes occur, the propriety of the current support order may need to be reviewed. To do so, both parties are expected to provide full disclosure of their earnings and other relevant economic information that shall then be considered in conjunction with the parenting issues.

**IT IS ORDERED** setting Evidentiary Hearing on July 11, 2011 at 10:00 a.m. (Time allotted: 1 hour) before the Honorable Benjamin Norris at the Southeast Judicial District, 222 East Javelina Avenue, Courtroom 404, Mesa, Arizona 85210. Due to the judicial rotation scheduled to occur in June, 2011, this represents a change in judicial assignment and both parties are on notice thereof in accordance with Rule 6 of the Arizona Rules of Family Law Procedure and Rule 42 of the Arizona Rules of Civil Procedure.

At the time of the hearing, if there are any residual parenting time issues following mediation, they shall be presented to the court. Additionally, possible child support modification shall be addressed by the court with an earliest retroactive date of April 1, 2011.

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**IT IS FURTHER ORDERED** any evidence intended to be submitted as exhibits at the time of the Evidentiary Hearing must be brought to Judge Norris' Clerk in Courtroom 404 **no later than 12:00 p.m. on Wednesday, July 6, 2011 with a coversheet listing the description of the exhibits.** All exhibits must be hand-delivered to Courtroom 404 and must have colored paper separating the exhibits. Any exhibits submitted shall be copied to the opposing party at that same time. The parties shall coordinate their exhibits so that each party does not present duplicate exhibits of the other party. In addition, at the time of the commencement of the hearing, **each party shall provide an extra copy of the exhibits for use by the Court during the hearing. This extra set of exhibits shall be noted to be the "Bench Copy".**

**IT IS FURTHER ORDERED** directing the courtroom clerk to update Mother's address in ICIS as stated this date on the record in open court.

2:24 p.m. Matter concludes.

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.